



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/612,458	07/02/2003	John Zevlakis	ZEVLAKE-ICE-CIP	5382

4988 7590 07/19/2004

ALFRED M. WALKER  
225 OLD COUNTRY ROAD  
MELVILLE, NY 11747-2712

EXAMINER

TAPOLCAI, WILLIAM E

ART UNIT	PAPER NUMBER
----------	--------------

3744

DATE MAILED: 07/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/612,458

Applicant(s)

ZEVLAKIS, JOHN

Examiner

William E. Tapolcai

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 1-21, 45 and 46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20030702, 2004/06/
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Claims 1-21, 45, and 46 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on June 10, 2004.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-27 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldsborough in view of Stiller. Goldsborough discloses the claimed invention except for the salt-containing ice being used as the frozen liquid and for the temperatures. Stiller teaches a freezing method in which salt water is used to make ice. See especially column 3, lines 30-34, which teaches that the freezing chamber is maintained at about minus 50 degrees F to freeze salt water rapidly. It would be obvious to substitute, for the fresh water used in Goldsborough, salt water frozen at about minus 50 degrees F, in view of Stiller, for the purpose of using salt water when it is available. The salt content of the frozen ice is considered to be a matter of obvious choice, as no criticality or unexpected results are seen or have been disclosed for the recited salt content of from 2% to 4% by weight.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldsborough in view of Stiller as applied to claim 22 above, and further in view of Bouloy. Goldsborough as modified above by Stiller discloses the claimed invention

Art Unit: 3744

except for the curved walls of the mold. Bouloy teaches an ice mold having curved walls. It would be obvious to modify Goldsborough so that the ice mold has curved walls, in view of Bouloy, for the purpose of making it easier to remove the ice segments from the mold.

5. Claims 34-41, 43, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldsborough in view of Stiller as applied to claim 22 above, and further in view of Giroux et al. Goldsborough as modified above by Stiller discloses the claimed invention except for the use of a beverage as the liquid to be frozen. It is extremely well known to freeze beverages such as Kool Aid in a mold. Giroux et al furthermore teaches the use of a beverage such as beer as a liquid to be frozen. It would be obvious to freeze a beverage such as beer, in view of Giroux et al, for the purpose of providing a frozen liquid other than water from time to time.

6. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Goldsborough in view of Stiller and Giroux et al as applied to claim 34 above, and further in view of Bouloy as applied to claim 28 above.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to William E. Tapolcai whose telephone number is (703) 308-2640. The examiner can normally be reached on Mon. - Thurs., 6:30 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Denise L. Esquivel can be reached on (703) 308-2597. The fax phone

Art Unit: 3744

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William E. Tapolcai  
Primary Examiner  
Art Unit 3744

wet  
July 6, 2004